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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirteenth session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 24 November 1995, at 10 a.m.

Chairperson: Mr. GRISSA

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The meeting was called to order at 10.10 a.m.

RELATIONS WITH UNITED NATIONS ORGANS AND OTHER TREATY BODIES (agenda item 7) (continued)

Statement by and discussion with the Chairperson of the Committee on the Rights of the Child

1. The CHAIRPERSON invited Mrs. Belembaogo, the Chairperson of the Committee on the Rights of the Child, to address members.

2. Mrs. BELEMBAOGO (Chairperson, Committee on the Rights of the Child), thanking the Committee for affording her an opportunity to share with it the views of the Committee on the Rights of the Child, said that the present exchange of views, the first of its kind, met the concern of the chairpersons of the human rights treaty monitoring bodies to strengthen cooperation among those bodies. She hoped that there would be an increasing number of such direct contacts during regular sessions in order to harmonize efforts to promote and protect human rights and to consolidate the experience gained by the different committees, bearing in mind the need for complementarity between them.

3. As the most recently established treaty body, the Committee on the Rights of the Child had drawn on the experience of other bodies, while endeavouring to introduce innovative working methods and approaches vis-à-vis Governments and taking full advantage of the particular procedures set out in the Convention on the Rights of the Child. For instance, it had given effect to article 45 of that Convention by initiating and fostering cooperation with various partners, such as the United Nations specialized agencies, the United Nations Children's Fund (UNICEF) and other appropriate bodies, including, in particular, non-governmental organizations (NGOs).

4. In conjunction with UNICEF and with its financial support, the Committee organized field visits and informal meetings once a year in a region of the world. Such visits, which were also useful to the other partners, enabled Committee members to gain a more thorough grasp of the situation concerning the rights of the child in the region concerned, the political will of Governments and the extent to which legislation and programmes were effective, and to raise awareness among NGOs and community organizations, the media and accredited international partners in the countries concerned through official meetings, press conferences, round tables, consultation meetings, visits to projects and institutions, and so on. The visits also enabled them to advise the authorities on reporting procedures and the availability of technical assistance where needed, and to assess the measures taken by the Governments to implement the Committee's recommendations. Furthermore, the visits helped UNICEF to ensure the incorporation of the provisions of the Convention in its programmes, to identify priority and urgent areas for action, to target its support more effectively and to harmonize its action in the field with other partners. Visits had already been made to one region in Latin America, two regions in Asia and two in Africa. They appeared to have had a positive impact at all levels.

5. Cooperation with other United Nations organizations and bodies was being stepped up in collecting information and data as inputs for the country situation analysis prepared by the Committee's secretariat, with increasingly effective participation by UNICEF representatives in the pre-sessional working group.

6. As to promotion of the Convention, the United Nations agencies invited the Committee to take part in international or regional conferences and associated it with international studies often recommended by the Committee itself on such subjects as international cooperation or the situation of the rights of the child in armed conflict. Collaboration was also being strengthened with ILO and UNHCR to encourage States to ratify and implement other Conventions complementary to the Convention on the Rights of the Child.

7. In its relations with NGOs, the Committee collected the information they provided and utilized it, exercising all due caution in doing so. An effort was currently being made to secure the participation of national NGOs in the pre-sessional working group. Such direct contacts with national and international NGOs and representatives of United Nations bodies helped the Committee to focus its questions to government delegations more effectively and facilitated its partners' own identification and adoption of strategies for action in the field.

8. Like the other treaty bodies, the Committee held a general discussion each year on a theme relating to the Convention, the purpose being to improve the Committee's working methods, prepare for its contribution to international conferences and adopt recommendations for submission to the General Assembly. One such discussion had concerned the impact of armed conflict on the rights of the child. The study subsequently recommended by the General Assembly on that subject was being financed by UNICEF. The Committee associated United Nations agencies and bodies, international NGOs and even individual consultants in preparatory work for the consideration of reports. Their representatives prepared their oral or written contributions on the basis of a technical note, containing guidelines, prepared by the Committee.

9. With regard to the monitoring of implementation of the Convention, the Committee had recently embarked on a process which would culminate in the establishment of a permanent monitoring mechanism for the implementation of its recommendations, on the basis of a plan of action adopted by the High Commissioner for Human Rights, for which there appeared to be some support from various partners. Seminars were organized regularly for that purpose with United Nations agencies and international NGOs. The most recent such meeting had led to a consensus on a number of requirements, namely, the need for regional and local dissemination of the Committee's recommendations by the Centre for Human Rights and the United Nations system as a whole, as well as by States parties, and international and national dissemination by NGOs; the need for the recommendations to be taken into account when projects and programmes relating to children were designed and negotiated; the need to involve the various United Nations agencies and international NGOs in the planning of field visits organized by the Committee and UNICEF; and the need for coordination in the implementation and monitoring of recommendations, involving technical assistance from the Centre for Human Rights.

10. One of the Committee's major concerns was the identification of social and economic indicators in order to assess the implementation of the Convention. At the Committee's request, a study was currently being carried out by the organization Childwatch International in some 10 countries. The findings would help Governments to identify data in areas that were not usually specified in such indicators. The study might be extended to cover social, economic and cultural rights. It had been undertaken because of the observed shortcomings in reporting, especially with regard to statistics.

11. Another equally important concern was that children were particularly affected by the structural adjustment programmes in most of the countries in transition to a market economy and to decentralized political power, where the situation concerning social structures for the protection of children, coordination and financing was critical.

12. At the most recent meeting of the chairpersons of human rights treaty monitoring bodies, a number of particularly important recommendations had been adopted. The purpose of some was to encourage clear support by certain organizations, as was the case with UNICEF's support for the Convention on the Rights of the Child, in other committees. She referred more especially to the recommendation that the specialized agencies and international organizations should consider the implementation of similar activities relating to international human rights instruments. She hoped that the possible forms of such action would be considered at the next meeting of chairpersons. The chairpersons had also recommended dialogue with senior officials from the main organizations and bodies concerned, especially the United Nations Development Programme (UNDP). They had recommended a specific status for treaty bodies to enable them to participate more actively in world conferences and to play their proper role in their relations with United Nations bodies. Another important recommendation, addressed to the Secretariat, was to encourage and facilitate the exchange of reliable information provided by NGOs, by issuing twice a year a timetable of all reports to be examined by the various bodies. The chairpersons had further expressed the hope that, following the first meeting of chairpersons of treaty bodies with the Secretary-General of the United Nations in June 1995, such meetings would become a regular annual feature. She also conveyed to the Committee a proposal by the Committee on the Rights of the Child that the human rights treaty bodies should combine their efforts and send a strong delegation to the forthcoming United Nations Conference on Human Settlements (Habitat II) with a single contribution based on inputs from the various bodies.

13. The Committee on the Rights of the Child also wished to benefit from the Committee's experience and information on any cases of violations of the rights of the child which came to its attention during its examination of reports so that they could be given due consideration as part of the urgent procedures mechanism of the Committee on the Rights of the Child. Mutual cooperation among treaty bodies would enable them, jointly and severally, to fulfil their mandates and help to promote human rights in general. They would, moreover, be able to identify the most appropriate approach to encouraging Governments to fulfil their treaty obligations. She would welcome any questions and comments from the Committee.

14. The CHAIRPERSON thanked Mrs. Belembaogo for her lucid, comprehensive statement.

15. Mrs. JIMENEZ BUTRAGUEÑO said that Mrs. Belembaogo's attendance at the meeting was most welcome, as was the information she had provided on the methods of work of the Committee on the Rights of the Child. Sharing experience, not just on personal cases but from a wider standpoint, was extremely useful for all concerned. She would be interested to know which countries in Latin America had benefited from the Committee's field visits. For her part, she would be willing to bring that Committee's concerns to the attention of the authorities in her country, so that social workers and educators could be duly informed.

16. Mrs. BONOAN-DANDAN said that the visit by the Chairperson of the Committee on the Rights of the Child was an encouraging development, and she agreed that a closer working relationship should be established between the treaty bodies. The rights of the child, notably in respect of child labour, protection of the family and education, were enunciated in the articles of the Covenant and were a central concern to the Committee. She was also particularly gratified by the support given to the research carried out by Childwatch International on the development of indicators and, together with other Committee members, she had attended a briefing on that subject at the meeting of the pre-sessional working group of the Committee on the Rights of the Child.

17. Mr. SIMMA joined in the appreciation expressed by other members and said that cooperation between the treaty bodies was gathering momentum. The first stage in such cooperation, with the designation of Committee members to liaise with other treaty bodies, had not been altogether effective, since it had principally involved an exchange of documentation. Cooperation was now entering a very promising second stage. It would be gratifying if arrangements could be made for a meeting to be held with the members of other treaty bodies, in addition to the annual meeting of chairpersons, so as to permit an informal, frank discussion of experience gained from reporting procedures, and he was willing to help prepare for such a meeting.

18. Mrs. Bonoan-Dandan had rightly drawn attention to the emphasis on the rights of the child in the work of the Committee on Economic, Social and Cultural Rights. That, however, raised the delicate issue of duplication in the issues dealt with by the various treaty bodies and their specific mandates, a problem which needed to be addressed in greater depth. In conclusion, he said that the Committee on the Rights of the Child was in an enviable position in terms of the support it received from NGOs and UNICEF, especially if that extended to financing.

19. Mr. TEXIER said there was much to be gained from direct exchanges of information and experience with other treaty bodies and he agreed with Mr. Simma that the annual meeting of chairpersons was not sufficient. He welcomed the idea of organizing a scientific but informal seminar, which might include the participation of NGOs and experts, so as to improve working methods, avoid duplication and devise a common approach to issues addressed by

more than one treaty body. He was also very interested in Mrs. Belembaogo's suggestion that the treaty bodies should adopt a common position for submission to the Habitat II Conference.

20. "Young" committees like the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights were at an advantage in being able to adopt innovative approaches to their working methods. Two possible areas of cooperation came to mind, the first being general issues, such as housing or education, and the second being issues concerning a particular country or region. He hoped that visits like today's would be continued in the future, although that would obviously depend on whether the sessions of the two Committees coincided.

21. Mrs. BELEMBAOGO (Chairperson, Committee on the Rights of the Child) said that because the Committee's field visit to Latin America in 1992 had been its very first, only one country, Ecuador, had been visited. A planned visit to Peru had not been possible because of the political situation. The visit had proved highly positive not only for the Committee but also for UNICEF and United Nations bodies operating in the field. Other agencies and bodies were increasingly asking to play a part in the organization of such visits. During the most recent visit to south Asia, involving a wide-ranging regional consultation with representatives of UNICEF, ILO and other organizations, the problem of child labour had been raised. The consultation had made for consensus on policies and strategies and, specifically, on the need to abolish child labour below a certain age, as specified in the Convention on the Rights of the Child. UNICEF had since taken steps to follow up that consultation.

22. On the subject of contacts between the treaty bodies, she would agree that existing arrangements, such as the annual meeting of chairpersons and the appointment of rapporteurs to liaise with other committees, were insufficient. The experience of the Committee on the Rights of the Child in its relations with NGOs demonstrated that direct exchanges of information were most effective, especially in securing information about the de facto situation prevailing in a particular country, for they supplemented the often scant practical information supplied by Governments in their reports. The Committee on the Rights of the Child was interested, too, in promoting unofficial contacts, like the suggested seminar, and also in encouraging informal contacts among members of the Committees, if the timetable could be arranged accordingly. The invitation to the Rapporteur of the Committee on Economic, Social and Cultural Rights to attend the briefing concerning the study by Childwatch International on indicators was an example of such informal contact. Perhaps it would be possible for the Centre for Human Rights to rearrange the meetings calendar so that the Committees' regular sessions could be held around the same time. That would allow members to engage in useful consultations, which regrettably had not been possible before.

23. She hoped that the Committee would take up her suggestion regarding arrangements for the HABITAT II Conference in order to ensure the best possible participation. The suggestion had been made in the light of the Committee's experience at other conferences at which representatives from different treaty bodies had not made adequate preparations among themselves beforehand to make sure that there was no overlapping in their statements. For instance, UNICEF and the Centre for Human Rights had played a vital role

during the World Conference on Women in Beijing by encouraging Governments to take account of the Convention on the Rights of the Child in the final acts. The Committee was fortunate in that good cooperation had been established with UNICEF from the outset. Possibly one of the reasons was the fact that explicit reference was made to UNICEF in the Convention on the Rights of the Child.

24. Unlike other United Nations agencies, UNICEF endeavoured to take account of the Convention in its programmes, and there was even a special Division on the rights of the child at UNICEF headquarters. Such a setup certainly helped the organization to focus its field action more usefully. UNICEF had done much to convince Governments that children's rights were not merely a humanitarian issue, but rather one of development, which must be factored into national development programmes. That had been one of the reasons why, during its recent mission to Bangladesh, the Committee had encouraged the United Nations Development Programme (UNDP) to organize a round table on the subject with the participation of representatives from all international organizations concerned, including the World Bank. Moreover, at the Committee's latest meeting with representatives of the various United Nations agencies on a possible follow-up mechanism for the implementation of recommendations, emphasis had been laid on the need to create greater awareness regarding the respective activities of the organizations; hence the suggestion to invite representatives holding a higher position of responsibility in future. Such had been the approach that had proved so successful with UNICEF.

25. The CHAIRPERSON observed that the two Committees had many areas of common concern. Since their Spring sessions were likely to coincide in future, it might be possible to establish more formal and regular contacts.

26. Mr. ALVAREZ-VITA said that the Committee on the Rights of the Child was fairly small, which in some respects might facilitate the organization of certain activities. Despite the fact that the different regions were well represented on the Committee on Economic, Social and Cultural Rights, it was surprising to see that members from one region were sometimes ill-acquainted with conditions in other regions. He had always been convinced of the usefulness of field visits in that respect and would therefore welcome more information on the missions carried out by the Committee on the Rights of the Child. Were they organized on the Committee's initiative or at the invitation of Governments? How were they financed and who exactly participated? As to the participation of NGOs, had the Committee on the Rights of the Child encountered the same problem as had the Committee of late, namely, a keen interest on the part of NGOs from a particular region and virtually no input from NGOs on reports submitted by States parties in other regions?

27. Mrs. BELEMBAOGO (Chairperson, Committee on the Rights of the Child) said that, although the Committee on the Rights of the Child was fairly small, members were greatly committed to their work and had a heavy schedule of meetings, missions and research. Lately it had been realized that, notwithstanding their commitment, some additional technical support was required. The Centre for Human Rights was well aware of the problem and the

High Commissioner for Human Rights was looking into the possibility of setting up a multidisciplinary technical support group to assist the Committee, hopefully with contributions from Member States.

28. The venues for missions were chosen in liaison with UNICEF. The Committee had already paid visits to Latin America as well as the Republic of South Africa and some West African countries; there had also been two missions to different parts of Asia. The missions were organized jointly by the Committee, the Centre for Human Rights and UNICEF, with the support of local UNICEF representatives in the countries concerned. Information files were prepared by the Centre for Human Rights and local UNICEF offices, using input from government sources and NGOs. The Committee had visited countries which had submitted reports to ensure follow-up. There had also been missions to countries whose reports were long overdue, with a view to discovering where the problem lay. Some States parties were fearful that the Committee's conclusions on their reports would tarnish their international reputation. A case in point was Bangladesh, which had in fact failed to submit a report it had prepared. However, as a result of the mission, with the assistance of UNICEF the Committee had managed to convince the authorities of the usefulness of the exercise and the report had finally been received. All Committee members were invited to take part in missions, although sometimes they were obliged to decline for practical reasons. None the less, there was a growing awareness among members of the importance of such missions and their individual contributions to them.

29. National NGOs were provided with the Committee's calendar and expected to pass on information to locally-based organizations, sometimes paying their travel expenses to allow them to attend events. She could not claim that NGOs were always present during the consideration of States parties' reports, but the presence of NGOs from an increasing number of regions was proving effective. Their input was extremely useful and greatly facilitated the Committee's work. Perhaps the degree of success could be attributed to the fact that the Committee did make an effort to take the views of NGOs into account, fostering the idea of NGOs as partners, who would provide information to supplement States parties' reports rather than to oppose the official government line. The Committee aimed to receive the maximum input from a wide variety of sources, verifying statistics on the basis of reports received from United Nations agencies, which, incidentally, were also well represented at Committee events.

30. The CHAIRPERSON thanked Mrs. Belembaogo for her statement, which had led to a most useful exchange of views. He hoped that the two Committees would maintain contact on issues of common concern in the future.

31. Mrs. BELEMBAOGO (Chairperson, Committee on the Rights of the Child) conveyed her gratitude to the members of the Committee for the opportunity to hold a very encouraging exchange of views.

32. The meeting was suspended at 11.15 a.m. and resumed at 11.30 a.m.

DRAFT GENERAL COMMENT ON THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF OLDER PERSONS (agenda item 6) (E/C.12/1994/WP.16/Rev.2)

33. Mrs. JIMENEZ BUTRAGUEÑO introduced the draft general comment, stressing that it was not strictly speaking her output, but rather the output of the Committee. A number of amendments proposed by members and the views of NGOs had been taken into account, since her first draft had been considered somewhat too radical. To her recollection, the Committee had already adopted most of the draft general comment, with the exception of paragraphs 22 to 25, pertaining to articles 6 to 8 of the Covenant, which had been the subject of some disagreement. Perhaps members would now like to comment on the revised version of those paragraphs before them (E/C.12/1994/WP.16/Rev.2). She suggested that any further amendments should be submitted to her in writing.

Paragraph 22

34. Mr. RATTRAY said that paragraph 22 attempted to make a general statement on the need to prevent age being used as a ground for discrimination. However, paragraph 12 raised the critical issue of whether a compulsory retirement age might be construed as constituting discrimination on the grounds of "other status" (art. 2 (2) of the Covenant). It also recognized that States should be allowed some flexibility in determining the necessity of a compulsory retirement age. However, the competing interests of the young had to be accommodated somewhere. Taken in isolation, the statement made in the second sentence of paragraph 22 seemed somewhat stark. Some cross-reference to paragraph 12 was therefore necessary, to ensure that it would not raise an issue which he regarded as a "grey area".

35. Mrs. JIMENEZ BUTRAGUEÑO pointed out that paragraph 12 had been drafted by Mr. Alston. A reference to the need to prevent discrimination against older persons close to retirement age should be retained, particularly in view of the Norwegian delegation's remarks about the early dismissal of such persons. While she appreciated the comments regarding the need for a reference to discrimination against young people, the paragraph in question was certainly not the appropriate place.

36. Mr. CEAUSU said that paragraph 22 could be retained subject to a slight amendment. In the second sentence, after the words "older workers", he suggested the insertion of the words "who have not reached retirement age".

37. Mr. TEXIER and Mr. RATTRAY endorsed the proposal.

38. Paragraph 22, as amended, was adopted.

Paragraph 23

39. The CHAIRPERSON, speaking as a member of the Committee, suggested that the second sentence was superfluous, since the words "safe working conditions" offered a sufficient safeguard.

40. Mrs. JIMENEZ BUTRAGUEÑO said that the reference to ILO Recommendation No. 162 (1980) was important, but she would not object to its deletion. In any case, the words "hasten the ageing process", in the second sentence, referred to all workers, not just to older workers.

41. Mr. KOUZNETSOV said that, while he agreed with the Chairperson's observation, it was important to keep the reference to the experience and know-how of older workers.

42. Mrs. JIMENEZ BUTRAGUEÑO said that she preferred to keep the text as it was. It shcuild be possible to find work for older workers that was both less arduous and in keeping with their experience. The importance of occupational health increased as workers grew older.

43. Mr. AHMED said he fully agreed that the second sentence should be deleted. It was not clear whom the words "it is desirable" referred to. If they were meant to refer to employers, a new wording would be required. If they referred to older workers, the proposition was not practical and could cause havoc in the labour market. The second sentence should therefore be omitted and the words "and are entrusted with jobs which make the best of their experience and know-how" should be added at the end of the first sentence.

44. The CHAIRPERSON suggested that the second sentence should read: "In particular, it is desirable therefore to employ older workers in occupations in which they can make the best use of their experience and know-how." Thus the reference to the ILO Recommendation, which dated back to 1980, would be deleted.

45. Mr. MARCHAN ROMERO and Mrs. JIMENEZ BUTRAGUEÑO supported that suggestion.

46. Paragraph 23, as amended, was adopted.

Paragraph 24

47. Mr. MARCHAN ROMERO pointed out that ageing, being an inevitable process, could not really be "combated", as the text suggested.

48. Mrs. JIMENEZ BUTRAGUEÑO agreed with that observation.

49. The CHAIRPERSON suggested that the words "alleviating the effects of ageing" should be used.

50. Mr. ALVAREZ VITA said the text seemed to indicate that all the effects of ageing were negative, which was not the case.

51. Mrs. BONOAN-DANDAN suggested the phrase "alleviating the detrimental effects of ageing".

52. Mrs. JIMENEZ BUTRAGUEÑO said that in drafting the text, she had been thinking mainly of medical guidance for the prevention of disease.

53. The CHAIRPERSON pointed out that the words "detrimental effects" would cover both health and working capacity and would exclude any positive effects of ageing.

54. Paragraph 24, as amended, was adopted.

Paragraph 25

55. Mr. MARCHAN ROMERO suggested that, in the Spanish version, the words "deben ser aplicados" should be replaced by "se aplican".

56. Mr. TEXIER suggested that the words "including after retirement" should be added at the end of the paragraph.

57. Paragraph 25, as amended, was adopted.

58. The CHAIRPERSON, pointing out that the remaining paragraphs had already been adopted, invited members to comment on the text as a whole.

59. In response to a suggestion by Mrs. JIMENEZ BUTRAGUEÑO, the CHAIRPERSON said that in situations characterized by a high rate of unemployment among young people and only limited employment opportunities, older workers had to be offered package deals to retire so that young people could enter the workforce. In all countries unemployment was higher among young workers in the 15 to 25 age group.

60. Mr. TEXIER suggested that paragraph 28 should start with the words "In accordance with the recommendations contained in both ILO Conventions and ILO Recommendation No. 162 concerning Older Workers, the Committee recommends that States should set the age of retirement", followed by the rest of the existing text beginning with the word "flexibly".

61. The CHAIRPERSON said he fully agreed with that suggestion.

62. The draft general comment as a whole (E/C.12/1994/WP.16 (Rev. 2), as amended, was adopted.

63. Mrs. JIMENEZ BUTRAGUEÑO thanked all the members for their valuable remarks and expressed her satisfaction that the draft general comment had been adopted.

64. Mr. ALVAREZ VITA thanked Mrs. Jiménez Butragueño for her work and urged her to follow up developments connected with the economic, social and cultural rights of older persons.

65. Mrs. BONOAN-DANDAN congratulated Mrs. Jiménez Butragueño on her work, which placed the Committee in the forefront of action to protect the right to work of older persons.

66. Mr. AHMED expressed the hope that the general comment would be given the necessary publicity.

67. The CHAIRPERSON thanked Mrs. Jiménez Butragueño for her work and perseverance. The general comment would be published as a separate document of the Committee and would be included as an annex to its annual report for 1995.

68. Mr. TIKHONOV (Secretary of the Committee) informed the Committee that the general comment would also be included in the compilation of general comments adopted by all treaty bodies.

The meeting rose at 12.30 p.m.